

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD) No.4985 of 2014

Arulmigu Anjaneya Swamy Temple
Represented by its Hereditary Trustee
D.Kumar

...Petitioner

..Vs..

1.M.Kumar
2.M.Muthu
3.The Commissioner,
Villupuram Municipality,
Villupuram
4.The Collector,
Villupuram District,
Villupuram.
5.The Tahsildar,
Villupuram.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree in A.S.No.48 of 2010 dated 26.08.2013 on the file of the Principal District Judge, Villupuram, confirming the judgment and decree in O.S.No.620 of 1997 dated 25.09.2008 on the file of the District Munsif, Villupuram.

For Petitioner	: Mr.N.Suresh
For R1	: Mr.M.Devaraj
For R3	: Mr.E.Gokula Krishnan
For R4&R5	: Mr.S.Jaganathan, Government Advocate

O R D E R

The first defendant in the suit is the Revision Petitioner.

2. One Mani has filed the suit in O.S.No.620 of 1997 before the Principal District Munsif Court, Villupuram, seeking for permanent injunction restraining the first defendant-Temple from interfering with the peaceful possession and enjoyment of the suit property and other three official defendants. The said suit was dismissed on 25.09.2008, against which an appeal was filed in A.S.No.48 of 2010 before the Principal District Judge, Villupuram. The said appeal was also dismissed on 26.08.2013. However, in the appeal, the learned Principal District Judge has observed that the first defendant-Arulmigu Anjaneyar Devasthanam does not have title to the property and challenging the same, the first defendant-Temple has filed the present Civil Revision Petition.

3. Mr.Srinivasan, learned counsel for the third respondent/Municipality and Mr.S.Jaganathan, learned Government Advocate for R4 and R5 are present before this Court.

4. It is seen from the records that the father of the respondents 1 and 2 has initially filed a suit on the averment that the land in the suit Survey Number belongs to the Temple by virtue of Ex.A1 – Lease Deed executed by the Temple. He was let in possession and he has put up construction and is paying the rent as per the lease deed. Since the Temple is trying to evict him, he has instituted the suit. Besides, he had put up the superstructure, the Municipality has issued a notice based on the report that he has encroached upon the property. When that being the case, the finding rendered by the Lower Appellate Court that the Temple is not the owner of the property is under challenge.

5. After hearing the respective counsel, it is brought to the notice of this Court that the Municipality was entrusted with to maintain water bodies namely the tank in the Temple and during the process of cleaning the water body, i.e., Temp-tank have also taken steps to clean the adjacent area and furthermore it is seen that as per the revenue records for the suit property, the patta stands in the name of the Temple.

6. In view of the submissions made by the respective counsel which is not disputed by other parties, the finding rendered by the Lower Appellate Court that the petitioner-temple is not the owner of the

property is liable to be vacated. Accordingly, the finding given by the Lower Appellate Court stands vacated.

7. With this modification, this Civil Revision Petition is partly allowed. No costs.

18.02.2020

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Index:Yes/No
Speaking Order:Yes/No

To

1. The Principal District Judge, Villupuram
2. The District Munsif, Villupuram.



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